

ASSEMBLY BILL

No. 1061

Introduced by Assembly Member Firebaugh

February 20, 2003

An act to amend Sections 10200, 10201, and 10205 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1061, as introduced, Firebaugh. Unemployment insurance: employment training panel: small businesses.

Existing law provides for the establishment of an employment training program and the Employment Training Panel in the Employment Development Department. Existing law authorizes this panel, among other duties, to utilize funds in the Employment Training Fund for, among other expenditures, funding projects that facilitate creation of high-wage, high-skilled jobs, or promote retention and expansion of the state's manufacturing or other industries threatened by out-of-state competition. Existing law requires the panel to establish a 3-year plan updated annually, based on the demand of employers for trained workers, changes in the state's economy and labor markets, and continuous reviews of the effectiveness of panel training contracts, including contracts with small businesses.

This bill would direct the panel, in funding projects that meet certain requirements, to consider training needs of high-growth industries, along with the training needs of the manufacturing industry and other industries threatened by out-of-state competition. The bill would define "high-growth industries" to include financial, insurance, real estate, business, health, social, professional, and entertainment and recreational services.

This bill would also establish an annual 25% small business participation goal in accordance with a specified executive order. This bill would define the term “small business” and would make certain findings and declarations related to the operation of the Employment Training Panel and allocation of its funds.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) According to a November 1, 2001, report, issued by the
4 California Research Bureau, and entitled “California’s Job
5 Training, Employment and Vocational Education Programs,”
6 millions of California’s working adults need to upgrade their
7 educational and work skills in order to secure employment at a
8 living wage.

9 (b) More than 2.5 million California workers, or nearly one in
10 five adults in the workplace, lack a high school diploma.

11 (c) Assisting workers in enhancing their skills and in qualifying
12 for high paid employment is critical if the state is to maintain a
13 competitive advantage in today’s global economy.

14 (d) The Employment Training Panel, the state’s major job
15 training program for employed workers, funds a variety of
16 workforce training services, including vocational training,
17 structured on-site training, industry-specific skills training, job
18 related literacy training, and retraining of workers.

19 (e) According to a two-year study conducted in 1999 and 2000
20 by California State University, Northridge, Employment Training
21 Panel-sponsored training increased worker earnings, reduced
22 unemployment, increased growth of California companies, and
23 stimulated economic expansion in the state.

24 (f) Recent studies have found that California’s small firms
25 receive a limited share of Employment Training Panel funds. The
26 California Research Bureau, in its report, “A Coordinated
27 Approach to Economic Development,” revealed that small
28 business firms do not apply for those funds because they may
29 experience difficulty in providing the levels of release time for
30 their workers required by the panel, lack internal staffing capacity



1 required to complete administrative requirements of the program,
2 or are unaware of Employment Training Panel programs.

3 (g) According to the Employment Training Panel's Small
4 Business Work Group, for each of 1998, 1999, and 2000 calendar
5 years, the panel granted an average of 2.2 percent of its funds to
6 small businesses employing 100 employees or less, who applied
7 directly to the panel for assistance, and less than 1 percent for small
8 firms employing 50 workers or less.

9 (h) The Employment Training Panel is statutorily required to
10 fund only certain projects, including projects that foster creation
11 of high-wage, high-skilled jobs in a manufacturing industry and
12 other industries threatened by out-of-state competition.

13 (i) According to a November 2002 report issued by the
14 California Research Bureau, and entitled "High Growth
15 Industries and Highly Educated Workers in California,"
16 manufacturing of both durable and nondurable goods comprises
17 16 percent of California's 825 billion dollars of total worker
18 earnings and is the state's most important industry. The same
19 report also cites the emergence of six high-growth industries,
20 including financial, insurance, real estate, business, health, social,
21 professional, and entertainment and recreational services.

22 SEC. 2. It is the intent of the Legislature to do all of the
23 following:

24 (a) Define the term "small business," for purposes of
25 Employment Training Panel services, in accordance with the
26 definition contained in paragraph (1) of subdivision (d) of Section
27 14837 of the Government Code.

28 (b) Establish a 25 percent small business participation goal for
29 use of Employment Training Panel funds in accordance with
30 Executive Order D-37-01, requiring state agencies to pursue an
31 annual 25 percent small business participation goal in state
32 contracting.

33 (c) In establishing priorities for allocation of Employment
34 Training Panel resources, consider the workforce training needs of
35 California's high-growth industries. For these purposes,
36 high-growth industries include financial, insurance, real estate,
37 business, health, social, professional, and entertainment and
38 recreational services.

39 (d) Authorize the Employment Training Panel to initiate a
40 demonstration pilot program for purposes of identifying new

1 strategies to increase small firms' access to Employment Training
2 Panel programs and services.

3 SEC. 3. Section 10200 of the Unemployment Insurance Code
4 is amended to read:

5 10200. The Legislature finds and declares the following:

6 (a) California's economy is being challenged by competition
7 from other states and overseas. In order to meet this challenge,
8 California's employers, workers, labor organizations, and
9 government need to invest in a skilled and productive workforce,
10 and in developing the skills of frontline workers. For purposes of
11 this section, "frontline worker" means a worker who directly
12 produces or delivers goods or services.

13 The purpose of this chapter is to establish a strategically
14 designed employment training program to promote a healthy labor
15 market in a growing, competitive economy that shall fund only
16 projects that meet the following criteria:

17 (1) Foster job creation of high-wage, high-skilled jobs, or
18 foster retention of high-wage, high-skilled jobs in manufacturing
19 and other industries that are threatened by out-of-state
20 competition. Provide for retraining contracts in companies that
21 make a monetary or in-kind contribution to the funded training
22 enhancements.

23 (2) Encourage industry-based investment in human resources
24 development that promotes the competitiveness of California
25 industry through productivity and product quality enhancements.

26 (3) Result in secure jobs for those who successfully complete
27 training. All training shall be customized to the specific
28 requirements of one or more employers or a discrete industry and
29 shall include general skills that trainees can use in the future.

30 (4) Supplement, rather than displace, funds available through
31 existing programs conducted by employers and
32 government-funded training programs, such as the Workforce
33 Investment Act of 1998, the Carl D. Perkins Vocational Education
34 Act, ~~CalWORKS~~, *CalWORKs*, the Enterprise Zone Act, and the
35 Stewart B. McKinney Homeless Assistance Act, or apportionment
36 funds allocated to the community colleges, regional occupational
37 centers and programs, or other local educational agencies. In
38 addition, it is further the intention of the Legislature that programs
39 developed pursuant to this chapter shall not replace, parallel,



1 supplant, compete with, or duplicate in any way already existing
2 approved apprenticeship programs.

3 ~~(b) The employment training panel~~ *Employment Training*
4 *Panel*, in funding projects that meet the requirements of
5 subdivision (a), shall give funding priority to those projects that
6 best meet the following goals:

7 (1) Result in the growth of the California economy by
8 stimulating exports from the state, and the production of goods and
9 services that would otherwise be imported from outside the state.

10 (2) *Address training needs of high-growth industries,*
11 *manufacturing industries, and other industries threatened by*
12 *out-of-state competition. For these purposes, "high-growth*
13 *industries" include financial, insurance, real estate, business,*
14 *health, professional, social, and entertainment and recreational*
15 *services.*

16 (3) Train new employees of firms locating or expanding in the
17 state that provide high-skilled, high-wage jobs and are committed
18 to an ongoing investment in the training of frontline workers.

19 ~~(3)~~

20 (4) Develop workers with skills that prepare them for the
21 challenges of a high performance workplace of the future.

22 ~~(4)~~

23 (5) Train workers who have been displaced, have received
24 notification of impending layoff, or are subject to displacement,
25 because of a plant closure, workforce reduction, changes in
26 technology, or significantly increasing levels of international and
27 out-of-state competition.

28 ~~(5)~~

29 (6) Are jointly developed by business management and worker
30 representatives.

31 ~~(6)~~

32 (7) Develop career ladders for workers.

33 ~~(7)~~

34 (8) Promote the retention and expansion of the state's
35 manufacturing workforce.

36 (c) The program established through this chapter is to be
37 coordinated with all existing employment training programs and
38 economic development programs, including, but not limited to,
39 programs such as the Workforce Investment Act of 1998, the
40 California Community Colleges, the regional occupational

1 programs, vocational education programs, joint
2 labor-management training programs, and related programs under
3 the Employment Development Department and the Trade and
4 Commerce Agency.

5 SEC. 4. Section 10201 of the Unemployment Insurance Code
6 is amended to read:

7 10201. As used in this chapter:

8 (a) “Department” means the Employment Development
9 Department.

10 (b) “Employer” or “eligible employer” means any employer
11 subject to Part 1 (commencing with Section 100) of Division 1,
12 except any public entity, or any nonprofit organization which has
13 elected an alternate method of financing its liability for
14 unemployment insurance compensation benefits pursuant to
15 Article 5 (commencing with Section 801), or Article 6
16 (commencing with Section 821) of Chapter 3.

17 Any public entity or nonprofit organization that has elected an
18 alternate method of financing its liability for unemployment
19 insurance compensation benefits pursuant to Article 5
20 (commencing with Section 801), or Article 6 (commencing with
21 Section 821) of Chapter 3, shall be deemed to be an employer only
22 for purposes of placement of new hire trainees who received
23 training as an incidental part of a training project designed to meet
24 the needs of one or more private sector employers.

25 (c) “Eligible participant” means any person who, prior to
26 beginning training or employment pursuant to this chapter, is any
27 of the following:

28 (1) Unemployed and has established an unemployment
29 insurance claim in this state, or has exhausted eligibility for
30 unemployment insurance benefits from this state within the
31 previous 24 months.

32 (2) Employed for a minimum of 90 days by his or her employer,
33 or if employed for less than 90 days, met the conditions of
34 paragraph (1) at the time of hire, had received a notice of layoff
35 from the prior employer, or was employed by an employer for a
36 period of not less than 90 days during the 180-day period prior to
37 the employee’s current employment.

38 (d) “Executive director” means the executive director
39 appointed pursuant to Section 10202.

1 (e) “Fund” means the Employment Training Fund created by
2 Section 1610.

3 (f) “Job” means employment on a basis customarily
4 considered full time for the occupation and industry. The
5 employment shall have definite career potential and a substantial
6 likelihood of providing long-term job security. Furthermore, the
7 employment shall provide earnings, upon completion of the
8 employment requirement specified in subdivision (f) of Section
9 10209, equal to 50 percent, in the case of new hire training, or 60
10 percent, in the case of retraining, of the state or regional average
11 hourly wage. However, in no case shall the employment result in
12 earnings of less than 45 percent of the state average hourly wage
13 for new hire training and 55 percent of the state average hourly
14 wage for retraining. The panel may consider the dollar value of
15 health benefits that are voluntarily paid for by an employer when
16 computing earnings to meet the minimum wage requirements.

17 (g) “New hire training” means employment training,
18 including job-related literacy training, for persons who, at the start
19 of training, are unemployed.

20 (h) “Panel” means the Employment Training Panel created by
21 Section 10202.

22 (i) “Retraining” means employment related skill and literacy
23 training for persons who are employed and who meet the definition
24 of paragraph (2) of subdivision (c) prior to commencement of
25 training and will continue to be employed by the same employer
26 for at least 90 days following completion of training.

27 (j) “State average hourly wage” means the average weekly
28 wage paid by employers to employees covered by unemployment
29 insurance, as reported to the Employment Development
30 Department for the four calendar quarters ending June 30 of the
31 preceding calendar year, divided by 40 hours.

32 (k) “Trainee” means an eligible participant.

33 (l) “Training agency” means any private training entity or
34 local educational agency.

35 (m) “*Small business*” means an independently owned and
36 operated business that is not dominant in its field of operation, its
37 principal office is located in California, its officers are domiciled
38 in California, and, together with affiliates, it has 100 or fewer
39 employees, and average annual gross receipts of ten million
40 dollars (\$10,000,000) or less over the previous three years, or it

1 *is a manufacturer, as defined in subdivision (c) of Section 14837*
2 *of the Government Code, with 100 or fewer employees.*

3 SEC. 5. Section 10205 of the Unemployment Insurance Code
4 is amended to read:

5 10205. The panel shall do all of the following:

6 (a) Establish a three-year plan that shall be updated annually,
7 based on the demand of employers for trained workers, changes in
8 the state's economy and labor markets, and continuous reviews of
9 the effectiveness of panel training contracts. The initial three-year
10 plan shall be submitted to the Governor and the Legislature not
11 later than January 1, 1994. The initial update of the plan shall be
12 submitted not later than July 1, 1994, and annual updates of the
13 plan thereafter shall be submitted not later than July 1 of each year.
14 In carrying out this section, the panel shall review information in
15 the following areas:

16 (1) Labor market information, including the state-local labor
17 market information program in the Employment Development
18 Department, and economic forecasts.

19 (2) Evaluations of the effectiveness of training as measured by
20 increased security of employment for workers and benefits to the
21 California economy.

22 (3) The demand for training by industry, type of training, and
23 size of employer.

24 (4) Changes in skills necessary to perform jobs, including
25 changes in basic literacy skills.

26 (5) Changes in the demographics of the labor force and the
27 population entering the labor market.

28 (6) Proposed expenditures by other agencies of federal
29 Workforce Investment Act funds and other state and federal
30 training and vocational education funds on eligible participants.

31 (b) The panel shall maintain a system to continuously monitor
32 economic and other data required under this plan. If this data
33 changes significantly during the life of the plan, the plan shall be
34 amended by the panel. Each plan shall include all of the following:

35 (1) The panel's objectives with respect to the criteria and
36 priorities specified in Section 10200 and the distribution of funds
37 between new-hire training and retraining.

38 (2) The identification of specific industries, production and
39 quality control techniques, and regions of the state where
40 employment training funds would most benefit the state's



1 economy and plans to encourage training in these areas, including
2 specific standards and a system for expedited review of proposals
3 that meet the standards.

4 (3) A system for expedited review of proposals that are
5 substantially similar with respect to employer needs, training
6 curriculum, duration of training, and costs of training, in order to
7 encourage the development of proposals that meet the needs
8 identified in paragraph (2).

9 (4) The panel's goals and operational objectives with respect to
10 meeting the needs of small employers, *including strategies*
11 *designed to enable the panel to meet a 25 percent small business*
12 *participation goal in accordance with Executive Order D-37-01.*
13 *These strategies may include, but are not limited to, pilot*
14 *demonstration projects, designed to identify and surmount current*
15 *barriers to small business access to Employment Training Panel*
16 *programs and workforce training resources.*

17 (5) The research objectives of the panel that contribute to the
18 effectiveness of this chapter in benefiting the economy of the state
19 as a whole.

20 (6) A priority list of skills that are in such short supply that
21 employers are choosing to not locate or expand their businesses in
22 the state or are importing labor in response to these skills
23 shortages.

24 (c) Solicit proposals and write contracts on the basis of
25 proposals made directly to it. Contracts for the purpose of
26 providing employment training may be written with any of the
27 following:

28 (1) An employer or group of employers.

29 (2) A training agency.

30 (3) A local workforce investment board with the approval of
31 the appropriate local elected officials in the local workforce
32 investment area.

33 (4) A grant recipient or administrative entity selected pursuant
34 to the federal Workforce Investment Act of 1998, with the
35 approval of the local workforce investment board and the
36 appropriate local elected officials.

37 These contracts shall be in the form of fixed-fee performance
38 contracts. Notwithstanding any provision of law to the contrary,
39 contracts entered into pursuant to this chapter shall not be subject
40 to competitive bidding procedures. Contracts for training may be

1 written for a period not to exceed 24 months for the purpose of
2 administration by the panel and the contracting employer or any
3 group of employers acting jointly or any training agency for the
4 purpose of providing employment training.

5 (d) Fund training projects that best meet the priorities
6 identified annually. In doing so, the panel shall seek to facilitate the
7 employment of the maximum number of eligible participants.

8 (e) Establish minimum standards for the consideration of
9 proposals, which shall include, but not be limited to, the
10 identification of employers who have been contacted by the
11 contractor and who have provided reasonable assurance that they
12 will employ successful trainees, the number of jobs available, the
13 skill requirements for the identified jobs, the projected cost per
14 person trained, hired, and retained in employment, the wages paid
15 successful trainees upon placement, and the curriculum for the
16 training. No proposal shall be considered or approved that
17 proposes training for employment covered by a collective
18 bargaining agreement unless the signatory labor organization
19 agrees in writing.

20 (f) Develop a process by which local workforce investment
21 boards may apply for marketing resources for the purpose of
22 identifying local employers that have training needs that reflect the
23 priorities of the panel. The panel may delegate its authority to
24 approve contracts for training to local workforce investment
25 boards, provided that no contract approved exceeds fifty thousand
26 dollars (\$50,000) per project without prior approval of the panel
27 and all contracts meet the provisions of this chapter and are
28 consistent with the annual priorities identified by the panel.

29 (g) Ensure the provision of adequate fiscal and accounting
30 controls for, monitoring and auditing of, and other appropriate
31 technical and administrative assistance to, projects funded by this
32 chapter.

33 (h) Provide for evaluation of projects funded by this chapter.
34 The evaluations shall assess the effectiveness of training
35 previously funded by the panel to improve job security and
36 stability for workers, and benefit participating employers and the
37 state's economy, and shall compare the wages of trainees in the
38 12-month period prior to training as well as the 12-month period
39 subsequent to completion of training, as reflected in the
40 department's unemployment insurance tax records. Individual

project evaluations shall contain a summary description of the project, the number of persons entering training, the number of persons completing training, the number of persons employed at the end of the project, the number of persons still employed three months after the end of the project, the wages paid, the total costs of the project, and the total reimbursement received from the Employment Training Fund.

(i) Report annually to the Legislature, by November 30, on projects operating during the previous state fiscal year. These annual reports shall provide separate summaries of all of the following:

(1) Projects completed during the year, including their individual and aggregate performance and cost.

(2) Projects not completed during the year, briefly describing each project and identifying approved contract amounts by contract and for this category as a whole, and identifying any projects in which funds are expected to be disencumbered.

(3) Projects terminated prior to completion and the reasons for the termination.

(4) A description of the amount, type, and effectiveness of literacy training funded by the panel.

(5) Results of complete project evaluations.

In addition, based upon its experience in administering job training projects, the panel shall include in these reports policy recommendations concerning the impact of job training and the panel's program on economic development, labor-management relations, employment security, and other related issues.

(j) Conduct ongoing reviews of panel policies with the goal of developing an improved process for developing, funding, and implementing panel contracts as described in this chapter.

(k) Expedite the processing of contracts for firms considering locating or expanding businesses in the state, as determined by the Trade and Commerce Agency, in accordance with the priorities for employment training programs set forth in subdivision (b) of Section 10200.

(l) Coordinate and consult regularly with business groups and labor organizations, the California Workforce Investment Board, the State Department of Education, the office of the Chancellor of the California Community Colleges, the Employment Development Department, and the Trade and Commerce Agency.

- 1 (m) Adopt by regulation procedures for the conduct of panel
2 business, including the scheduling and conduct of meetings, the
3 review of proposals, the disclosure of contacts between panel
4 members and parties at interest concerning particular proposals,
5 contracts or cases before the panel or its staff, the awarding of
6 contracts, the administration of contracts, and the payment of
7 amounts due to contractors. All decisions by the panel shall be
8 made by resolution of the panel and any adverse decision shall
9 include a statement of the reason for the decision.
- 10 (n) Adopt regulations and procedures providing reasonable
11 confidentiality for the proprietary information of employers
12 seeking training funds from the panel if the public disclosure of
13 that information would result in an unfair competitive
14 disadvantage to the employer supplying the information. The
15 panel may not withhold information from the public regarding its
16 operations, procedures, and decisions that would otherwise be
17 subject to disclosure under the California Public Records Act
18 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
19 Title 1 of the Government Code).
- 20 (o) Review and comment on the budget and performance of
21 any program, project, or activity funded by the panel utilizing
22 funds collected pursuant to Section 976.6.

